

**Air Pollution Control Advisory Council (APCAC) Meeting**  
**Friday, November 3, 2006 – 1:30 p.m.**  
**Lee Metcalf Building – Room 111**  
**Montana Department of Environmental Quality (DEQ)**

Members present were Rich Southwick, Michael Barton, and Chad Doheny. ARMB staff present were Chuck Homer, Tina Engel, Jan Brown, Bob Habeck and Debra Wolfe.

Mr. Homer opened the meeting at 1:43 p.m. Since a quorum was not present, the election of a chairperson was deferred to a future meeting. Mr. Homer asked members present to think about whether or not they would like to serve as the chairperson. He suggested cutting the meeting schedule from six meetings to two per year. There aren't enough rulemakings at this time to hold six meetings, and he doesn't want members to waste their time. He will recommend this reduced meeting schedule to the new chairperson.

Mr. Homer stated that the goal of today's meeting is to describe the air fee budget, the Department's proposed legislation, and some future rule projects. He said that the air program is funded by federal grants from EPA, a small amount of general fund money, and air quality fees (which make up the majority of the air program funding). He distributed hard copies and went through a Power Point presentation on the air program fee budget for FY 2008 & 2009. The presentation described the following:

- Air program structure
- Air program activities (by unit/bureau/division)
- Air fee base budget request
- Air program new requests/decision packages
- Air quality fee setting process
- FY '08 air quality fee estimate

Many of the slides are described in detail below.

**#3 – Air Program Structure** – DEQ's air program is divided among three divisions and the Director's office as follows:

- Legal Unit (Director's office)
- Enforcement Division (ENFD)
- Planning, Prevention & Assistance Division (PPAD)
  - Air, Energy & Pollution Prevention Bureau (AEPP)
- Permitting & Compliance Division (PCD)
  - Air Resources Management Bureau (ARMB)

Slides #4 through #6 described the functions of the above units.

**#7 – Base Budget Request** – Mr. Homer explained that you start with the base year of FY 2006, subtract any one-time expenditures, make any necessary adjustments, then you get the FY 2007 base. You then add the decision packages that are summarized in #8 and described in #9 through #14. Michael Barton asked how much revenue is associated with the other 600 oil and gas facilities. Mr. Homer said he would cover that later.

### **#9 – Oil & Gas Permitting Decision Package**

- Two additional FTE to implement current permitting requirements applicable to conventional oil and gas well facilities
- Initial anticipated regulatory activities include identification, notification and cataloging of the oil and gas wells
- DEQ estimates 1,000 existing oil and gas well facilities within the state that are currently required to obtain a permit or register in lieu of obtaining a permit

Mr. Homer said that it will take four years to get all of the oil and gas sources registered. For compliance purposes, only 15% of the universe can be completed each year.

### **#10 – Permitting Major Sources of Air Pollution Decision Package**

- One additional FTE to permit major sources of air pollution subject to Title V of the Federal Clean Air Act
- There has been a steady increase in air quality regulatory requirements applicable to major sources subject to Title V over the past few years, particularly regarding control of emissions of hazardous air pollutants
- The increase in regulatory responsibilities has occurred without a commensurate increase in the Department's Title V permitting and compliance staff

### **#11 – Online Compliance Reporting Decision Package**

- Modify DEQ's agency-wide database to allow regulated facilities to submit required compliance reports online
- Advantages:
  - Makes an easier and more efficient data submittal process for regulated facilities
  - Reduces the amount of staff time needed for data entry/management
  - Improves data quality by reducing errors associated with data transcription

Mr. Homer explained that modifying the database is a one-time only expense. Michael Barton asked how many regulated facilities there are. Mr. Homer said there are 623 permitted facilities. Mr. Barton asked if the oil and gas facilities are included. Mr. Homer said that some are considered facilities and some are stand-alone wells. Mr. Barton asked how many the unregistered oil and gas wells would add to the 623. Mr. Homer said there are 400 oil and gas applications to date waiting to be processed.

### **#12 – Air Pollution Emission Tracking Decision Package**

- One additional FTE to track emissions of air pollutants from all emission sources to:
  - Implement New Source Review requirements of the Montana and Federal Clean Air Acts
  - Determine if new development or expansion of existing facilities can be permitted
  - Communicate information on current air quality to the regulated community

Mr. Homer explained that currently we only look at emissions in cases of new sources. We also need to track emissions from minor sources in order to determine if existing sources can be expanded, as well as allowing new sources.

### **#13 – ARMB Relocation Decision Package**

- Relocate the Air Resources Management Bureau if additional FTE are approved
  - 100% of available office space assigned to ARMB is currently occupied

- If additional FTE are approved:
  - ARMB will need to relocate to another building, or
  - Relocate to another area within the Metcalf Building, displacing staff from other bureaus

Mr. Homer said this would be a one-time expense. Rich Southwick asked if the cost is just for the moving itself. Mr. Homer said it also includes equipment purchases, cubicle set-up, etc.

#### **#14 – Air Regulatory Assistance Decision Package**

- Staff vacancies, a lack of experienced staff and increased activity in projects requiring air quality permits has created a need for consulting services to provide regulatory assistance (MEPA Review, compliance outreach)
- The Department is in the process of reviewing possible projects and may adjust this proposal

There were no questions or discussion on this proposal for contracting services.

Slide #15 summarized the total budget request, including the decision packages, #16 explained the ARMB fee setting process, and #17 showed the factors involved in determining fees. The EPA presumptive Title V fee is currently \$41.02 per ton.

#### **#18 – Estimated FY’08 Air Fee**

- Assumptions:
  - \$181,000 carryover
  - Emissions – 1,000 tons of emissions from oil and gas wells
  - Number of sources – 300 additional oil and gas well facilities
  - Applications received – 25 new applications from oil and gas wells
  - All Decision Packages are approved

Michael Barton asked what the smallest fee amount is currently. Mr. Homer said it is \$470.25. Mr. Barton asked if that is a disincentive to reducing emissions. Mr. Homer said that PPL-MT pays about \$1.5 million in fees, which is about half of all the fees generated. He said that we have never been able to come up with the perfect fee structure that would accomplish all that we would like to do, including providing an incentive to reduce emissions.

Rich Southwick asked how much of the total budget is New Source Review (NSR). Mr. Homer said there are statutory requirements for what fees can be used for, so we are careful to follow those. Other activities are funded by grants and some general fund money. Mr. Southwick asked how much of costs incurred are attributed to NSR. Mr. Homer said that one-third of our staff are in permitting, and most NSR activities are permitting. Mr. Southwick asked if there is a backlog of oil and gas applications. Mr. Homer said there is, but that doesn’t keep those facilities from operating. They have operated without permits in the past.

**DEQ LEGISLATION** – Mr. Homer said there is only one Department proposal for the 2007 legislative session – to change the definition of “incinerator” in the Clean Air Act of Montana. He gave some background of the existing incinerator statute, explaining that in the late 1980’s and early 1990’s, there were lots of proposals to incinerate hazardous waste in Montana. This created a concern about incinerators, so 75-2-215, MCA, was passed. The current proposal would broaden the definition of “incinerator” but would expand the list of exclusions. It is LC

243, and the Department will find a sponsor for it after the election. Although this is the only Department-sponsored legislation, he anticipates there will be many legislative bills that relate to the Department.

Mr. Southwick asked if there was any issue with the definition of “solid waste” in the bill. Mr. Homer said the definition of solid waste under the air rules is different from the definition under other rules. He said there will always be a discussion of what things fall under a definition. For example, a tire when it’s on your car isn’t a waste, but it is when you throw it away. Mr. Southwick asked how burning in an incinerator differs from other burning. Mr. Homer said they need to show negligible risk. Mr. Southwick asked if this legislation would discourage the recycling of slag and tires. Mr. Homer said they are caught under the current definition and will be under the new definition also. He said the proposed legislation is intended to clarify the existing rules.

**FUTURE RULEMAKING PROJECTS:** Mr. Homer said that now that the mercury rule has been completed, the staff will return to working on the list of other pending rules. He mentioned that the annual fee rule would begin after the legislature ended, starting in April or May. The Columbia Falls Aluminum Company (CFAC) maintenance rule was rejected by EPA, so we have to amend or repeal it since our rules now conflict with the State Implementation Plan (SIP). Minor changes have been proposed to the open burning rules. Minor changes also must be made to the oil and gas rules, because the rules that implemented SB 95 from the last session and the rules to allow registration of oil and gas well facilities have to be coordinated. In the future, we hope to add additional source categories to the registration rule. There are some proposed small changes to the permitting rules. Late next year there will be major changes to the PM2.5 standards. There are some “housekeeping” or minor administrative changes to be made to existing rules that won’t require major involvement of APCAC, but we’ll keep them informed.

**NEXT MEETING AND ADJOURNMENT:** Mr. Homer suggested that the next meeting be held late in the legislative session or after it ended. Michael Barton suggested holding it during the session, perhaps in March. That was agreeable to the other APCAC members present. Mr. Homer will select a date and notify members by e-mail. The meeting was adjourned at 2:56 p.m.

*(Notes compiled by Jan Brown, ARMB)*